IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 14659 of 2002

Between:

Smt. K. Jyothi, W/o. Sandeep,
R/o. 1-9-236/2/2/A, Ramnagar,
Hyderabad.

..... PETITIONER

AND

1 The Deputy Registrar of Cooperative Society / Officer on --Special

Duty, Vasavi Cooperative Urban Bank Ltd., Malakpet,
Hyderabad.
2 The Sale Officer --- II,
Vasavi Cooperative Urban Bank Ltd., Malakpet,
Hyderabad.
3 Kanda Gatla Krishan, S/o. K. Yellaiah,
R/o. 1-9-236/2/2/A, Ramnagar,
Hyderabad.
4 Kanda Gatla Srinivas, S/o. K. Yellaiah,
R/o. 1-9-236/2/2/A, Ramnagar,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to direct the 2nd respondent herein to adjudicate the claim petition preferred by the petitioner herein in EP No. 0286 / 2001 by issuing appropriate writ of Mandamus, order or direction.

Counsel for the Petitioner:MR.M.V.S.SURESH KUMAR

Counsel for Respondent No.1: MR.S.ASHOK ANAND KUMAR

The Court made the following :

ORDER:

The petitioner claims to be the joint owner of the property bearing No.1-9-236/2/2/A admeasuring 946.66 square yards. It is her case that respondent Nos.3 and 4, who also have a share, mortgaged the property to the 1st respondent to secure a loan they availed. When they committed default, the 1st respondent obtained an award under Section 71 of the A.P.Cooperative Societies Act, 1964 (for short 'the Act') in a sum of Rs.11,96,159-26. In relation thereto, the 2nd respondent initiated execution proceedings. Claiming a share in the property, the petitioner allegedly approached the 2nd respondent by filing an application under Clause(a) sub-Rule(21) of Rule 52 of the A.P.Cooperative Societies Rules, 1964 (for short 'the Rules') in vain. Therefore, the present writ petition is filed seeking a direction to the 2nd respondent to adjudicate her claim petition and pass appropriate orders. Though the interlocutory matters are listed, the main writ petition is heard and disposed of.

Rule 52(21) of the Rules reads as under.

> "52(21)(a) where any claims is preferred or any objection is made to the attachment of any property under this rule on the ground that such property is not liable to such attachment, the officer shall investigate the claim or objection and dispose it of on the merits:
>
> Provided that no such investigation shall be made when the sale officer considers that the claim or objection is frivolous.
>
> (b) Where the property to which the claim or objection relates has been advertised for sale, the sale officer may postpone the sale pending the investigation or the claim or objection.
>
> (c) Where a claim or an objection is preferred that party against whom an order is made any institute a suit within six months from the date of the order to establish the right which he claims to the property in dispute, but subject to the result of such suit, if any, the order shall be conclusive."

Rule 52(21)(a) of the Rules casts a duty on the sales officer to consider every claim petition and pass appropriate orders, and the aggrieved party is given a remedy by way of suit under Rule 52(21)(c) of the Rules. Therefore, the grievance of the petitioner is justified. This is not disputed by the counsel for the other side.

Accordingly, the writ petition is disposed of directing the 2nd respondent to consider the claim petition filed by the petitioner on 06.08.2002 and pass appropriate orders, if the sale proceedings are still pending. No costs.

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(V.V.S.RAO,J)

22.06.2005

Jsu/Vs
To

1 The Deputy Registrar of Cooperative Society / Officer on --Special

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